

**COURT OF COMMON PLEAS  
FOR THE STATE OF DELAWARE  
KENT COUNTY COURTHOUSE  
DOVER, DELAWARE 19901  
PHONE: (302) 739-4618**

**CHARLES W. WELCH, III  
JUDGE**

March 15, 2011

Ms. Lasagna A. Adamolekun  
448 Northdown Drive  
Dover, DE 19904

Robert C. McDonald, Esq.  
Silverman, McDonald & Friedman  
1010 North Bancroft Parkway, Suite 22  
Wilmington, DE 19805

RE: Evelyn Bowman v. Lasagna A. Adamolekun  
C.A.No.: CPU5-10-001499

Decision on Defendant's Motion to Vacate Default Judgment

Dear Ms. Adamolekun and Mr. McDonald:

The court is in receipt of the defendant's Motion to Vacate Default Judgment that was filed with it on March 1, 2011. Please be advised that after carefully reviewing the motion and the file for this matter, the motion is denied.

A default judgment was entered against the defendant on Wednesday, February 9, 2011, when she failed to appear for the pre-trial conference that was scheduled for that date and failed to file a completed pre-trial conference worksheet and stipulation. The court notes that the February 9, 2011, pre-trial conference for this matter was the second one scheduled. The defendant had also failed to appear for the January 10, 2011, pre-trial conference that was originally scheduled for this case and failed to file the required completed pre-trial conference worksheet and stipulation for that date. Notices advising her of the dates for these pre-trial conferences and the requirement to file a completed

pre-trial conference worksheet and stipulation were sent to the defendant at her address of record in a timely manner.<sup>1</sup>

The defendant filed a motion to vacate the default judgment entered against her for this matter on March 1, 2011. In her motion, she contends that she never received notice of her February 9, 2011, court date and time until after the fact.

Once a default judgment has been entered, a party must file a motion to vacate the default judgment in order to reopen the case. Under Court of Common Pleas Civil Rule 60(b), a party moving to vacate a default judgment must establish three elements before the motion will be granted: “(1) excusable neglect in the conduct that allowed the default judgment to be taken; (2) a meritorious defense to the action that would allow a different outcome to the litigation if the matter was heard on the merits; and (3) a showing that substantial prejudice will not be suffered by the plaintiff if the motion is granted.” *Perry v. Wilson*, 2009 WL 1964787, at \*1 (Del. Super.) (quoting *Verizon Delaware, Inc. v. Baldwin Line Constr. Co.*, 2004 WL 838610, at \*1 (Del. Super.)).

The court will only consider the second two elements if the defendant has provided a satisfactory explanation that the default judgment was entered due to excusable neglect. *Id.* “Excusable neglect” is defined as “that neglect which might have been the act of a reasonably prudent person under the circumstances.” *Id.*

The court is not satisfied that the default judgment was entered against the defendant pursuant to conduct that amounts to excusable neglect. Although she contends that she never received notice of the February 9, 2011, pre-trial conference court date, court records indicate that notices of the two scheduled pre-trial conference dates for this case were mailed to the defendant at her address of record in a timely manner. She failed to appear for either pre-trial conference and did not submit a completed pre-trial conference worksheet and stipulation for either conference as required by the notices and

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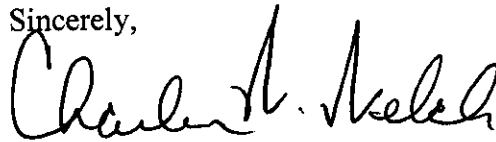
<sup>1</sup> The notice advising the defendant of the January 10, 2011, pre-trial conference date was sent by the court to her address of record on December 3, 2010. The notice advising the defendant of the February 9, 2011, pre-trial conference date was sent to her by the court at her address of record on January 14, 2011.

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Court of Common Pleas Civil Rule 16(b). Such neglect is not the act of a reasonably prudent person under the circumstances. Therefore, the defendant's motion is denied.

**IT IS SO ORDERED.**

Sincerely,

A handwritten signature in black ink, appearing to read "Charles W. Welch, III". The signature is fluid and cursive, with the first name "Charles" being the most prominent.

Charles W. Welch, III

CWW:mek